



*de maximis, inc.*

186 Center Street  
Suite 290  
Clinton, NJ 08809  
(908) 735-9315  
(908) 735-2132 FAX

September 5, 2013

Stephanie Vaughn  
Lower Passaic River Restoration Project  
U.S. Environmental Protection Agency, Region II  
290 Broadway  
New York, New York 10007-1866

***Via Electronic Mail***

**Re: Notice of Force Majeure –  
Bridge Street Bridge –Mechanical Failure  
River Mile 10.9 Removal Action  
CERCLA Docket No. 02-2012-2015**

Dear Ms. Vaughn:

This letter is submitted on behalf of the Lower Passaic River Cooperating Parties Group (CPG) to provide notice in accordance with Section XVII of the "Administrative Settlement Agreement and Order on Consent for Removal Action," captioned "In the Matter of Lower Passaic River Study Area portion of the Diamond Alkali Superfund Site," CERCLA Docket No. 02-2012-2015 (AOC) that a Force Majeure event exists due to the fact that the Bridge Street Bridge (hereafter Bridge), which is located at River Mile (RM) 5.41 and connecting Newark and Harrison, is currently inoperative. As described in more detail below, on August 31, there was a major mechanical failure of the Bridge's gear assembly.

- In an email of 6:47 a.m. on August 31, Hudson County on behalf of Essex County (the joint operators of the Bridge) reported that, "[a]fter successfully opening for river traffic at 3:30 a.m. Saturday, operators were unable to close the [Bridge]." Operators reported hearing "unusual noises during the opening and suspect a faulty gear box." (Attachment 1).
- As a result of the gear assembly failure,) Hudson County provided notice to the CPG and its contractors that "UNTIL FURTHER NOTICE, BRIDGE STREET BRIDGE IS OUT OF SERVICE". (Attachment 1).
- Initial notice was provided to CDM (EPA's oversight contractor) on August 31. Written notice was provided via email to EPA on September 1 (Attachment 2)
- Subsequent communications between Hudson County and CPG representatives indicated that the Bridge would remain closed and not operated or be opened until repairs were completed in an estimated 4 weeks.
- As a result of Hudson County's inability to operate the Bridge, Great Lakes Dredge and Dock (CPG's contractor) filed a mariner's complaint with US Coast Guard (USCG) District Commander on September 3 due to Hudson County's refusal to open the Bridge on September 1 and 2. (Attachment 3)

Allentown, PA • Clinton, NJ • Greensboro, GA • Knoxville, TN • Farmington Hills, MI • Riverside, CA  
Cortland, NY • Wheaton, IL • Sarasota, FL • Houston, TX • Windsor, CT • Waltham, MA



**S. Vaughn**  
**RM 10.9 Removal Action – Force Majeure**  
**September 5, 2013**  
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- On September 3, Hudson County provided an email to USCG stating that the Bridge was inoperative and that repairs would be completed in 30 days. (Attachment 4). It is the CPG's understanding that Hudson County did not submit a formal Notice to Mariners properly documenting the status and limitations of the Bridge.
- On September 4, USCG sent a letter (Attachment 5) to Hudson and Essex Counties stating that the:
  - Counties' plan and estimate schedule to return the Bridge to service in 30 days was unacceptable;
  - Counties are required to provide a description of actions to be taken, why the Bridge can not open, and the Counties' plan to accommodate bridge openings;
  - USCG noted that critical marine movements related to the RM 10.9 Removal Action are being delayed. The USCG stated that it is the Counties' obligation to develop and implement a solution to repair the Bridge or leave the Bridge in an open position to allow the passage of critical marine traffic; and,
  - The USCG directed the Counties provide a plan to provide all requested information and provide a plan to repair the Bridge within 2 days or face civil penalties.
- On September 4, Hudson County responded, via email, to USCG's letter. With respect to accommodating the RM 10.9 Removal Action, the email states that such accommodation is "only possible if the bridge is kept in the open position thereby closing the bridge to vehicular traffic . . . ." Any other method would "entail constant opening and closing of the bridge through either a winching procedure or tug boat operation thereby subjecting the bridge to further structural damage." (Attachment 6).
- On September 4, Hudson County issued a Declaration of Emergency describing the condition of the Bridge and that it intended to undertake repairs (Attachment 7).

The inoperative condition of the Bridge prevents the CPG and its contractors from transporting dredged sediment from the RM 10.9 Removal Area to the Clean Earth Facility on Hackensack River within the schedule agreed upon between USEPA and the CPG. The inoperable state of the Bridge is beyond the control of the CPG or its contractors, as the Bridge is owned and/or operated by Essex and Hudson Counties who are required under Federal Regulations to maintain the Bridge in an operable state and open the Bridge upon proper notice from mariners. The failure of the Bridge due to any maintenance issues, or lack thereof, by the Counties is completely beyond the control of the CPG.

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In order to mitigate the potential delay, an extended Force Majeure event can be avoided if the Counties follow USCG's suggested alternative that the Bridge be opened and remain in the open position until the Bridge is repaired and again operational. The CPG recommends that the EPA support this alternative to allow the continuation of the Removal Action and avoid further delays. While the CPG's information is based upon currently available information, it is subject to change. At this point in time, there do not appear to be any other feasible alternatives. Pursuant to Hudson County's September 4 email, other movement of the Bridge through either a winching procedure or tug boat operation could potentially subject the Bridge to structural damage. While the current alternative will raise traffic implications, it may be the only option to minimize an extended delay of the project. Otherwise, the CPG understands that Hudson County is estimating a repair schedule of approximately 4 weeks.

The CPG appreciates the EPA's cooperation and the CPG will provide written and verbal updates as new information becomes available.

Please contact William Hyatt, Willard Potter or me if you require further information.

Very Truly Yours,  
**de maximis, inc.**



Robert Law, Ph.D.  
CPG Project Coordinator

**cc:**

Ray Basso, EPA  
Sarah Flannigan, EPA  
Mike Hoppe, EPA  
Willard Potter, de maximis  
William Hyatt, CPG Coordinating Counsel  
CPG Members

**Attachments 1-7**

# **ATTACHMENT 1**

**Robert Law - Fwd: BRIDGE STREET BRIDGE OUT OF SERVICE**

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**From:** Robert Law  
**Subject:** Fwd: BRIDGE STREET BRIDGE OUT OF SERVICE

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Begin forwarded message:

**From:** "Stan Kaczmarek" <StanK@demaximis.com>  
**Date:** August 31, 2013, 7:06:40 AM EDT  
**To:** "" <kbarry@hcnj.us>  
**Cc:** "Willard Potter" <otto@demaximis.com>, "" <Gary.Foster@CH2M.com>, "" <TKing@qldd.com>, "" <darencibia@hcnj.us>, "" <hdemellier@hcnj.us>, "" <jglembocki@hcnj.us>, "" <kleong@hcnj.us>, "" <wwolfe@hcnj.us>, "" <mstanton@mbi-gs.com>  
**Subject:** Re: **BRIDGE STREET BRIDGE OUT OF SERVICE**

I am on my way to the bridge now. Please keep the updates coming. Thanks Kevin for the efforts.  
Stan

Kevin Barry <kbarry@hcnj.us> 08/31/13 6:47 AM >>>

After successfully opening for river traffic at 3:30 am Saturday, operators were unable to close the Bridge Street Bridge. Our mechanical repair vendor Perrello had been called in to manually close the bridge and investigate the problem. Operators report hearing unusual noises during the opening and suspect a faulty gear box.

Therefore, UNTIL FURTHER NOTICE, BRIDGE STREET BRIDGE IS OUT OF SERVICE. You will be notified when the bridge will be back in service. Please adjust your river traffic schedule accordingly.

Kevin Barry

Sent from my iPhone

# **ATTACHMENT 2**

**Robert Law - Notice of Bridge Street Bridge outage and impacts on Removal Action Schedule**

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**From:** Stan Kaczmarek  
**To:** 'Stephanie Vaughn'; Michael Hoppe  
**Date:** 9/1/2013 2:12 PM  
**Subject:** Notice of Bridge Street Bridge outage and impacts on Removal Action Schedule  
**CC:** Amy Picunas; BudneySL@cdmsmith.com; John Rolfe; Matt Stanton; Mike B...  
**Attachments:** 20130901 Bridge Street Bridge Status.pdf

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Stephanie and Mike,

Bridge Street Bridge became inoperable on Saturday August 31. Analysis of the cause is attached. Hudson County is attempting to have their mechanical contractor implement repairs, but the mechanical contractor has been unresponsive as of 14:00 today.

The impact on this outage on Removal Action schedule is still being assessed. What we know now is:

1. The barge movement planned for this evening has been canceled.
2. Make decisions on Monday around noon regarding barge movements for Monday evening's high tide.
3. Activities on Monday at the RM 10.9 area will consist of a final post dredging survey of Cuts 5,6 and 6T in Area 2 and relocation of silt curtain from Area 1 to the northern end of Area 2.
4. Given that empty barges are not going to be moving upriver Sunday night, there will be no dredging on Monday.
5. Cancel planned stabilization activities at Clean Earth on Tuesday, but continue with shipments of stockpiled stabilized sediment and water on Tuesday.
6. Finalize dredging in Cuts 5/6 with removal of minor high spots (pending survey results) and begin dredging north of the No Dredge Zone on Tuesday.
7. Current scow capacity at RM 10.9 will be filled after 1/2 to 1 day of dredging.

We will determine and report to you additional impacts once the schedule for Bridge Street repairs is set.

**Stan Kaczmarek, PE**  
de maximis, inc.  
186 Center Street, Suite 290  
Clinton, NJ 08809  
(O) (908) 735-9315  
(C) (973) 978-9621

# **ATTACHMENT 3**



# URGENT MARINE NOTICE

## COMPLAINT FORM

IF YOU HAVE ANY PROBLEM WITH DELAYED BRIDGE OPENINGS, PLEASE DO THE FOLLOWINGS:

1. Fill out a complaint form and fax it to 212-668-7967 or mail to the attention of Mr. Gary Kassof, Commander (dpb), First Coast Guard District, One South Street, Battery Park Building, New York, NY 10004. He can be reached at 212-668-7165. Also you can find more information on our website at [www.uscg.mil/d1/prevention/bridges.asp](http://www.uscg.mil/d1/prevention/bridges.asp)

Date: September 3, 2013 and time 1400 hours of incident

Bridge Name: Bridge Street Bridge Waterways: Passaic River

My vessel name Specialist II/Eastern Dawn and home port/marina Montauk, NY/NY, NY

Vessel ID# 27148/593148 Vessel color Blue, White/Blue, White

☒ Commercial vessels ☐ Recreation boat ☐ others

I was traveling ( ☒ inbound/ ☐ outbound)

I signaled the bridge for an opening by ( ☒ VHF radio, ☐ Horn, ☒ Telephone, ☒ other)

The bridge tender ( ☒ did, ☐ did not) respond

*List the time and method of each signal and whether or not there was a response. Also include time of response.*

1<sup>st</sup> call 24 hour notice provided-bridge opening denied until repairs are made (see below)

2<sup>nd</sup> call \_\_\_\_\_

3<sup>rd</sup> call \_\_\_\_\_

What time was passage through the bridge granted? 1935 hours

If by VHF radio, please note the comments of the bridge tender: pls see below

Did you contact the bridge tender by telephone to arrange an advance notice of arrival? ☒ Yes ☐ No

If yes, please list the telephone number and date called. Wally Wolfe, 201-744-6256-office, 201-388-0615-cell

If so, what was the result of the call and what happened when you arrived at the bridge?

See below

What was the end result of the incident? see below

Additional comments/remarks:

Bridge Street bridge sustained mechanical damage on 8/31/13 and remained in an open position in the AM. Later in AM, tow trucks were used to close the bridge to allow traffic to pass. GLDD tugboats/scows were denied passage on 9/1/13 and 9/2/13 due to inability of bridge to open. On 9/3/13, County officials stated they could manually open the bridge to allow travel to occur on the evening of 9/3/13, but later recanted and stated that they could not provide an opening to allow GLDD dredging support equipment to pass until such a time that bridge could be fully repaired. Duration of bridge outing is estimated to be 3 to 4 weeks.

Name: Todd King Telephone: 630-272-6494

Address: Great Lakes Dredge and Dock, 2705 Richmond Terrace, Staten Island, NY 10303

Signature:  Date: September 3, 2013

# **ATTACHMENT 4**

**Robert Law - Fwd: US Coast Guard Bridge St. Bridge Current Status Report**

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**From:** Robert Law

**Subject:** Fwd: US Coast Guard Bridge St. Bridge Current Status Report

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>>> On 9/4/2013 at 1:36 PM, in message

<1CC21EB02F7067498B4A39A010CC3FE7AE5985@DRMAIL.internal.gldd.com>, <TKing@gldd.com> wrote:

-----Original Message-----

From: Joe.M.Arca@uscg.mil [mailto:Joe.M.Arca@uscg.mil]

Sent: Wednesday, September 04, 2013 1:28 PM

To: wwolfe@hcnj.us; Harold Demellier; Kevin Barry; Irodriguez@essexcountynj.org; Svargese@hcnj.us

Cc: Kassof, Gary CIV; Leoce, Donna D LCDR; Yunker, Jeff M CIV; King, Todd; JPaal@terra-sea.com; Briggs, Timothy D

Subject: US Coast Guard Bridge St. Bridge Current Status Report

Coast Guard letter to County of Essex/Hudson Joint Bridges, hard copy to follow.

Joe

-----Original Message-----

From: wwolfe@hcnj.us [mailto:wwolfe@hcnj.us]

Sent: Tuesday, September 03, 2013 2:40 PM

To: Arca, Joe M CIV

Cc: Harold Demellier; Kevin Barry; Irodriguez@essexcountynj.org

Subject: US Coast Guard Bridge St. Bridge Current Status Report

Joe,

As per our conversation this date, the Hudson/Essex Bridge Commission has finished storm related (Sandy) repairs at Bridge, Clay and Jackson St. Bridges. We have been actively responding to requests for openings, once and twice per day for openings related to the Passaic River clean up project by de maximis inc.

On Saturday, 8-31-13, we opened and turned Bridge St. Bridge to allow access to a barge related to the above. In closing the bridge failed and a gear from the bridge shaft broke off making the bridge inoperable. We are in the process of obtaining estimates for repairs and making plans for the removal, manufacturing of custom gear parts and reinstallation of same. Our contractor (Perrello Mechanical) has instructed us that this mission of necessary repairs should be completed in 30 days. I will advise on updates and progress. You can contact me for update info and emergency notifications at 201-915-1373 or CELL # 201-388-0615.  
Thank you

# **ATTACHMENT 5**

U.S. Department of  
Homeland Security

United States  
Coast Guard



Commander  
First Coast Guard District

Battery Park Bldg.  
1 South Street  
New York, NY 10004-1466  
Staff Symbol: (dpb)  
Phone: (212) 668-7165  
Fax: (212) 668-7967  
Email: gary.kassof@uscg.mil

16594/5.6H//  
Passaic R/NJ//  
September 4, 2013

**CERTIFIED MAIL RETURN RECEIPT REQUEST**

Mr. Sanjeev Varghese, P.E.PP  
County Engineer  
County of Essex/Hudson Joint Bridges  
Department of Public Works  
900 Bloomfield Avenue  
Verona, New Jersey 07044

Dear Mr. Varghese:

This is in reference to the Bridge Street Bridge that sustained gear damage on 31 August 2013. Since then the bridge has been unable to open for marine traffic.

On 3 September 2013 Mr. Wally Wolfe e-mailed to this office a vague description of the gear problem and the fact that the bridge will unable to open. Mr. Wolfe indicated that your office is in the process of obtaining estimates for repairs. Estimated time of repairs is thirty days. This is unacceptable.

You are required to provide this office with a definitive description of the action you have taken and are taking, why the bridge cannot open, and if it cannot, your plan to accommodate marine traffic until the bridge is operational.

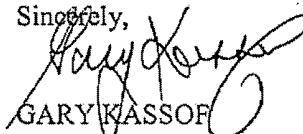
Critical marine movements, particularly related to the nearby Lower Passaic dredging project, have been delayed due to inability to get passage through the Bridge Street Bridge. It is necessary that if permanent repairs cannot be completed in the short term a temporary plan must be implemented to provide bridge openings or leave the bridge in the open position for critical marine transits. Further, the work effort to restore the bridge to operational condition must be maximized.

Title 33 Code of Federal Regulations 117.36(c) requires that repairs to drawbridges due to emergency closures must be performed with all due speed in order to return the drawbridge to operation as soon as possible. Without further information we may consider County of Essex/Hudson Joint Bridges in violation of the above regulation and therefore subject to imposition of a civil penalty of \$25,000.00 per day with each day considered a new violation.

Therefore, it is required that within 2 days receipt of this letter this office be provided with the required information above and your plan and schedule for restoring the bridge to operation.

Please contact me or Joe Arca of this office at your earliest convenience.

Sincerely,

A handwritten signature in black ink, appearing to read "Gary Kassof", written over the printed name.

GARY KASSOF

Bridge Program Manager

First Coast Guard District

By direction of the District Commander

Copy: Commander-SECNY - Waterway Oversight Branch

Mr. Luis Rodriguez, Hudson/Essex joint Bridges

Mr. Wally Wolfe, Hudson/Essex joint Bridges

# **ATTACHMENT 6**

**Robert Law - FW: US Coast Guard Bridge St. Bridge Current Status Report**

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**From:** "Monsen, Dawn M." <dawn.monsen@klgates.com>  
**To:** "Monsen, Dawn M." <dawn.monsen@klgates.com>  
**Date:** 9/4/2013 5:54 PM  
**Subject:** FW: US Coast Guard Bridge St. Bridge Current Status Report

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## -----Original Message-----

**From:** Harold Demellier [<mailto:hdemellier@hcnj.us>]  
**Sent:** Wednesday, September 04, 2013 2:12 PM  
**To:** 'Joe.M.Arca@uscg.mil'; Wally Wolfe; Kevin Barry; [lrodriguez@essexcountynj.org](mailto:lrodriguez@essexcountynj.org); [Svargese@hcnj.us](mailto:Svargese@hcnj.us)  
**Cc:** Kassof, Gary CIV; Leoce, Donna D LCDR; Yunker, Jeff M CIV; King, Todd; [JPaal@terra-sea.com](mailto:JPaal@terra-sea.com); Briggs, Timothy D  
**Subject:** RE: US Coast Guard Bridge St. Bridge Current Status Report

Mr. Joe M. Arca: My name is Harold E Demellier Jr. I am the Director of the Department of Roads and Public Property for Hudson County. My responsibilities encompass the three bridges that traverse the Passaic River, in partnership with Essex County. The partnership has in place a governmental agreement that rotates the day to day operational responsibility for the bridges on a two year basis. This current cycle is Hudson County's two year period. Mr. Wally Wolfe is the day to day representative as the Division Chief of the Roads Division for Hudson County. He reports directly to me. Please direct all future written correspondence to either Mr. Wolfe or myself. We are obligated to keep Essex County informed. It is your decision concerning who you wish to copy. I disagree with your assessment concerning a vagueness of description of the damage and the effort to repair said damage to the Bridge Street stricture. I also protest your arbitrary assignment of the deadline without any concern for our responsibilities and obligations under state statute in developing our action plan for this repair. However, I will direct our Engineering Division to forward the technical description for your review which will include the time frame for the repair. Addressing your directive to "accommodate" the contractor for the dredging project, this is only possible if the bridge is kept in the open position thereby closing the bridge to vehicular traffic for the duration of the repair project. Any other method of "accommodating" the dredging project would entail constant opening and closing of the bridge through either a winching procedure or tug boat operation thereby subjecting the bridge to further structural damage. The engineer for the dredging project admitted as much with regards to the use of tug boats. At least one winching contractor would not do the job because of this potential liability. I am forwarding you letter to the County Legal Department for their response.

## -----Original Message-----

**From:** [Joe.M.Arca@uscg.mil](mailto:Joe.M.Arca@uscg.mil) [<mailto:Joe.M.Arca@uscg.mil>]  
**Sent:** Wednesday, September 04, 2013 1:28 PM  
**To:** Wally Wolfe; Harold Demellier; Kevin Barry; [lrodriguez@essexcountynj.org](mailto:lrodriguez@essexcountynj.org); [Svargese@hcnj.us](mailto:Svargese@hcnj.us)  
**Cc:** Kassof, Gary CIV; Leoce, Donna D LCDR; Yunker, Jeff M CIV; [TKing@glidd.com](mailto:TKing@glidd.com); [JPaal@terra-sea.com](mailto:JPaal@terra-sea.com); [TDBriggs@glidd.com](mailto:TDBriggs@glidd.com)



Subject: US Coast Guard Bridge St. Bridge Current Status Report

Coast Guard letter to County of Essex/Hudson Joint Bridges, hard copy to follow.

Joe

-----Original Message-----

From: [wwolfe@hcnj.us](mailto:wwolfe@hcnj.us) [mailto:[wwolfe@hcnj.us](mailto:wwolfe@hcnj.us)]

Sent: Tuesday, September 03, 2013 2:40 PM

To: Arca, Joe M CIV

Cc: Harold Demellier; Kevin Barry; [lrodriguez@essexcountynj.org](mailto:lrodriguez@essexcountynj.org)

Subject: US Coast Guard Bridge St. Bridge Current Status Report

Joe,

As per our conversation this date, the Hudson/Essex Bridge Commission has finished storm related (Sandy) repairs at Bridge, Clay and Jackson St. Bridges. We have been actively responding to requests for openings, once and twice per day for openings related to the Passaic River clean up project by de maximis inc.

On Saturday, 8-31-13, we opened and turned Bridge St. Bridge to allow access to a barge related to the above. In closing the bridge failed and a gear from the bridge shaft broke off making the bridge inoperable. We are in the process of obtaining estimates for repairs and making plans for the removal, manufacturing of custom gear parts and reinstallation of same. Our contractor (Perrello Mechanical) has instructed us that this mission of necessary repairs should be completed in 30 days. I will advise on updates and progress. You can contact me for update info and emergency notifications at [201-915-1373](tel:201-915-1373) or CELL # [201-388-0615](tel:201-388-0615). Thank you

# **ATTACHMENT 7**



Thomas A. DeGise  
County Executive

**COUNTY OF HUDSON  
DEPARTMENT OF ROADS AND PUBLIC PROPERTY**

Hudson County Plaza  
257 Cornelison Avenue, 7<sup>th</sup> Fl  
Jersey City, NJ 07306

Harold E. Demellier, Jr  
Director

**DECLARATION OF EMERGENCY**

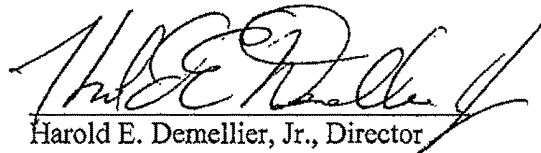
**BRIDGE STREET BRIDGE**

**AUGUST 31, 2013**

On Saturday, August 31, 2013 at approximately 5:30 AM, the Bridge Street bridge connecting Harrison and Newark experienced a major mechanical failure rendering it inoperable. Subsequent inspection of the mechanical equipment on the bridge revealed that the differential gear is broken and various shaft keys and a pinion shaft sheared. Other mechanical repairs related to this event may become evident when the equipment is dismantled.

A quote was solicited for the repairs from Perrello, Inc, PO Box 865 Lake Hopatcong, NJ 07849, which currently holds contract # 12181 "Welding, Structural and Mechanical Repairs for the Bridge Street, Clay Street and Jackson Street Bridges". The repair estimate is approximately \$100,000 to \$150,000 and is not to exceed \$150,000. Repairs will take approximately thirty (30) days.

In view of the fact that maritime traffic cannot navigate up or down the Passaic River while the bridge is non-functional, it therefore poses a threat to the health and safety of residents and property along the river. Based upon the foregoing, and upon consultation with the Office of the County Counsel, I hereby declare that in accordance with the NJ Local Public Contracts Law at NJSA 40A: 11-6 an emergency does exist, and work shall commence immediately to address this situation.

  
Harold E. Demellier, Jr., Director

9/4/13  
Date